

8th November, 1985.

Sunseeker Investments

**BAILIFF:** Now we agree that this is a much less serious case than many that come before this Court and we think that that aspect of the matter has certainly been reflected of course in the conclusions of the Attorney General. There are three different types of offences here. There is first of all the offence of having flats occupied by persons qualified to occupy them but with a failure to put in as required by the regulations, the exemption certificates, with a result that in fact one has the offence of occupying them without consent. But obviously there is lacking in this first class of cases, that is the three infractions, there is lacking the mischief of somebody occupying premises which they were not residentially qualified to do, there is not that mischief present in this type of case. So what is the mischief? Well, as we understand it, the Housing Committee - it has been deliberately included in the Regulations that there is this requirement to inform the Committee by way of an Exemption Certificate, within a certain time. There must be a reason for that requirement and the reason we believe is so that the Housing Committee knows what is going on and we think that is important from the point of view of the Housing Committee to keep control. Therefore we think that although the, as I say, the people were otherwise entitled to occupy, the Committee was not being informed of what was going on and as has been said so often, people who wish to use properties for commercial purposes must understand the law, if necessary by seeking professional advice and it really is no excuse - we have said this so often - it really is no excuse to come here and say: "I did not know that the law required me to do this or that". One can only keep on saying, it is the duty of people who use properties for commercial purposes to make themselves find out what the law is saying. Yes, it is a little complicated, I accept that, we accept that, the Regulations are a little complicated, but nevertheless there is a good reason for everything which is in the Regulations and if one is going to accept the explanation or the excuse, I did not realise exactly what the law said, then in fact the provisions of the law are to a considerable extent set at nought. I really think it important that the Housing Committee should know what is going on and that is the purpose of this and therefore we see nothing wrong in the fines asked for in respect of counts 1, 3 and 4 and therefore we see nothing wrong in that - the totality is £300 and although it all stems from the same ignorance nevertheless there were three separate occasions. We see nothing wrong in that at all and we fine that amount on charges on counts 1, 3 and 4. With regard to charge 2, which

is a separate matter altogether - it is the occupation by Mr. Trousdale - it is possible, we have to accept, it is possible that when Mr. Black first brought Mr. Trousdale in to what is called a 'Granny flat' that he may have thought that it was perfectly in order to do so as undoubtedly a lot of other people did, we do not really see how he could have continued to think it was alright once he had left the premises himself four months later. Nevertheless, because he may have started off thinking that it was in order we are prepared to give him the benefit of the doubt and we will reduce the fine of £1,000 to £750. That is on charge 2. As regards the third type of offence - which is that charged under charge 5, which is asking for more than the registered rent, the fine asked for is £50. It is perfectly true that the amount or the excessive amount asked for is very small indeed - £9.78 - nevertheless, it has to be said that it is important, very important that no landlord should ever ask for more than the registered rent. There may conceivably have been a mathematical miscalculation in this case but it is important that landlords should not make mathematical miscalculations and therefore charge more than the rent. The amount excessively or overcharged was small but we think the fine asked for - £50 - could hardly be less and therefore we will impose that as well.

It comes to this, therefore, that we impose on charge 1 a fine of £100; on charge 2 a fine of £750; on charges 3 and 4 a fine of £100 each; and on charge 5 a fine of £50; we also order the company to repay to Miss Romeril the sum of £9.78 and we order the company to pay costs in the sum of £100.